JOHN WILLIAMS } Plaintiff, *in Errour.*

JOSEPH OFFLEY *Esquire, surviving Executor of* John Owen *deceas'd,* } Defendant.

# The Defendant's Case.

THE now Plaintiff in Errour, on the Eighth Day of *November*, in the 25*th* Year of King *Charles* the Second, (with others) became Bound to the Defendant's said Testator, in a Bond of the Penalty of 200 *l.* Conditioned for the Payment of 106 *l.* (being a just Debt for Money lent, and the Interest thereof) on the 9*th* Day of *November* then next following.

This Debt not being paid, the now Defendant, in *Michaelmas* Term 1703, brought his Action on the said Bond against the now Plaintiff, to which he appeared; and without any colour for it pleaded Conditions perform'd, [*viz.* That the Money was paid at the Day mention'd in the Condition] upon this Issue was joyn'd, and the Cause came to Trial, at the Sitting in *Middlesex*, after *Michaelmas* Term 1704, before the Right Honourable the Lord Chief Justice of the Court of Common Pleas: And upon full Evidence on both sides, a Verdict was found for the now Defendant, to the satisfaction of the said Judge, who tried the Cause.

The Plaintiff in Errour, notwithstanding this, on the first Day of the then next Term, Applyed to the Court of Common Pleas for a new Trial, but was denied it by the whole Court.

Whereupon the now Defendant had his Judgment.

Upon this the now Plaintiff [meerly for delay and vexation] brought his Writ of Errour in the Court of Queen's Bench, and assigned only the General Errour; *viz.* That Judgment was given for the then Plaintiff, whereas it ought to have been given for the then Defendant; but this last *Michalemas* Term, without any manner of Argument, Judgment was affirmed by the Court of Queen's Bench.

Moreover, the now Plaintiff, still to be more Vexatious, at the same time brought a long frivolous Bill in the Court of Exchequer, against the now Defendant, to be reliev'd against the said Verdict and Judgment: To which Bill the now Defendant pleaded his said Verdict and Judgment in Bar, and upon Argument the said Plea in Bar was adjudg'd to be good by the whole Court of Exchequer; It plainly appearing that the then Complainant had no colour of Equity in his said Bill: Yet the now Defendant was unavoidably put to very great Trouble and Expence, in making his Defence.

At last, after above two Years time, and a vast deal of Money spent, [near the value of the Debt] after two Judgments at Common Law, and one in Equity, against the now Plaintiff: He [that no manner or degree of Vexation, Delay or Expence, to the now Defendant, might be omitted] has now brought his Writ of Errour in this Honourable House, and has again assign'd only the General Errour, when the single Question is, whether he shall be oblig'd to Pay a just Debt due upon a Bond, or not?

*Wherefore the Defendant* Offley *humbly Prays*, That his said Judgment may be affirmed with exemplary Costs, *to be paid by the now Plaintiff, for his vexatious and unjust Proceedings.*

Francis Page,
Steph. Clay.

John Williams *Plaintiff*,

AGAINST

Joseph Offley *Esq*; *Defendant*.

THE

*Defendant's CASE*,

To be heard *February* the 6th 1705.
1706